

**No. PD-0005-18**

**IN THE  
COURT OF CRIMINAL APPEALS  
FOR THE STATE OF TEXAS**

FILED  
COURT OF CRIMINAL APPEALS  
9/4/2018  
DEANA WILLIAMSON, CLERK

**MARGARET FAYE  
LITCHFIELD**

**Appellant**

**v.**

**STATE OF TEXAS**

**Appellee**

APPEAL FROM THE 52<sup>ND</sup> JUDICIAL DISTRICT COURT  
OF CORYELL COUNTY, TEXAS  
TRIAL COURT CAUSE NUMBER: 15-22720  
AFFIRMED BY THE SIXTH COURT OF APPEALS OF TEXAS  
CAUSE NUMBER 06-17-00007-CR

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**STATE'S BRIEF**

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**CHARLES KARAKASHIAN, JR.**  
**SPECIAL PROSECUTOR**  
**52<sup>ND</sup> JUDICIAL DISTRICT**  
**STATE BAR NO. 11095700**  
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September 4, 2018

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**NAMES OF THE PARTIES TO THE FINAL JUDGMENT**

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**TRIAL JUDGE**

The Honorable Judge Trent D. Farrell  
52<sup>nd</sup> Judicial District Court  
P.O. Box 1155  
Gatesville, Texas 76528

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## ORAL ARGUMENT

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TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The State does not request oral argument. This Court has not granted oral argument.<sup>1</sup>

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## STATEMENT OF THE CASE

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The State agrees with Appellant's Statement of the Case. The State was granted one extension. The State's brief is due on September 6, 2018.

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## REPLY TO THE ISSUE PRESENTED

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**Reply to Issue:**

*In finding the evidence legally sufficient to support Appellant's conviction, the Sixth Court of Appeals did follow the appropriate standard of review*

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<sup>1</sup> *In re Litchfield*, No. PD-0005-18, 2018 Tex. Crim. App. LEXIS 228 at \*1 (Tex. Crim. App. June 6, 2018); Tex. R. App. P. 75.2.

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## STATEMENT OF FACTS

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This is a circumstantial evidence case. Appellant was convicted of the murder of her husband, Raymond Litchfield.<sup>2</sup> The Sixth Court of Appeals ultimately concluded that the cumulative force of all of the incriminating circumstances was sufficient to allow a rational jury to convict Appellant.

### ***Background.***

Litchfield was murdered in 1999. The initial investigation did not result in an arrest. The case remained unsolved until it was re-opened in 2012. As a result of this new investigation, Appellant was indicted and ultimately convicted of murdering her husband, as he lay in bed, during the early morning hours of January 29, 1999.

### ***The Evidence cited by the Court of Appeals.***

The Sixth Court of Appeals, in upholding Appellant's conviction for the murder of her husband, cited to numerous items of evidence.<sup>3</sup> The Court cited to evidence from both the initial and subsequent investigations. The Court also cited to Appellant's conflicting statements. Among the items of evidence discussed by the Court were the following:

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<sup>2</sup> Tex. Penal Code §19.02(b)(1) (West 2016).

<sup>3</sup> *Litchfield v. State*, No. 06-17-00007-CR, 2017 Tex. App. LEXIS 11080 (Tex. App. – Texarkana Nov. 30, 2017 pet. granted) (op. not designated for publication).

**1.     *Appellant’s “Role Playing.”***

Responding paramedic Polidor described Appellant’s demeanor as “role playing”.<sup>4</sup> Appellant’s demeanor seemed out of the ordinary. Polidoro had the gut feeling Appellant’s reaction was “like practice.”<sup>5</sup>

**2.     *Litchfield was shot in bed.***

Investigator May described the layout of the house.<sup>6</sup> He observed a bullet hole in the bed. He concluded Litchfield was first shot as he lay in bed, then again and again as he moved through the hallway into the kitchen. May’s opinion was Litchfield was shot with a .22 caliber gun.<sup>7</sup>

**3.     *Litchfield turned to face his killer.***

Ranger Aycock analyzed the evidence and concluded Litchfield was shot in bed. Litchfield then made his way through the hallway and into the kitchen where he fell and died.<sup>8</sup> Litchfield was shot at close range based upon the stippling on the body. Litchfield got up out of the bed and backed into the hallway. Aycock based this on the damage to the bottom of the hallway wall and the sheetrock residue found on Litchfield’s right heel. He concluded that in backing down the hallway away from the shooter, Litchfield must have been facing and possibly talking to the shooter.<sup>9</sup>

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<sup>4</sup> (11 RR 61, 62).

<sup>5</sup> (11 RR 55 – 59).

<sup>6</sup> (10 RR 38, 89, 90).

<sup>7</sup> (10 RR 98 – 108).

<sup>8</sup> (11 RR 116 – 132, 141).

<sup>9</sup> (11 RR 145, 146).

He opined Litchfield wouldn't have turned to face his attacker unless he knew who was shooting him.<sup>10</sup>

#### **4. *Time of Death.***

Dr. Crowns knew gunshot wounds and was an expert in forensic pathology.<sup>11</sup> He gave an 8 – 12 hour range for the time of death, but also testified the range could have been between 6 – 18 hours at the outside, depending on environmental factors.<sup>12</sup> Dr. Crowns estimated the murder occurred between 2:00 a.m. and 8:00 a.m.<sup>13</sup> He testified Litchfield's toxicology report indicated it was extremely unlikely Litchfield could have been smoking marijuana at 6 a.m. on the day he died.<sup>14</sup>

#### **5. *Litchfield's gun was the probable murder weapon.***

Robert Poole's expertise was firearm and tool mark identification.<sup>15</sup> He examined the bullets taken from Litchfield's body, fragments found at the scene, a Federal brand cartridge case, a PMC brand cartridge case, two pistol magazines, and a number of .22 caliber cartridges that had been removed from those magazines.<sup>16</sup> Poole stated the bullets taken from Litchfield could have been fired from a .22 Ruger Mark One pistol, and were consistent with the PMC brand.<sup>17</sup> The bullets or bullet

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<sup>10</sup> (11 RR 156 – 158).

<sup>11</sup> (11 RR 65 – 67).

<sup>12</sup> (11 RR 71, 72, 84 – 87, 91, 92).

<sup>13</sup> (11 RR 74, 75).

<sup>14</sup> (11 RR 96). This refutes one version Appellant gave of the last time she saw Litchfield.

<sup>15</sup> (12 RR 7, 8).

<sup>16</sup> (12 RR 23, 24).

<sup>17</sup> (12 RR 32).

fragments recovered from the crime scene could have been fired from a Ruger brand pistol.<sup>18</sup> This matched the ammunition taken from the Litchfield residence.<sup>19</sup>

Helms interviewed Appellant. She admitted Litchfield had a .22 Ruger pistol, which he either kept in his truck or in the bedroom nightstand.<sup>20</sup> Helms testified it was common sense the murder weapon was taken from the house.<sup>21</sup>

Ranger Ramos picked up the case in 2006. He noted the missing .22 was usually kept in Litchfield's bedroom night stand.<sup>22</sup>

#### **6. *Appellant's inconsistent statements.***

Appellant told Helms their finances had been rough, but were a lot better in the last year or so. She gave her account of what transpired that morning.<sup>23</sup> The last time she saw her husband alive, he was in bed. She kissed him goodbye.<sup>24</sup>

In Appellant's second statement she told Helms it took her an hour and a half to get to Amanda Wood's house which was 23 miles away.<sup>25</sup> Appellant gave two versions of how she woke up that morning.<sup>26</sup>

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<sup>18</sup> (12 RR 33).

<sup>19</sup> (12 RR 34, 35). These were taken from Litchfield's gun case. (12 RR 121).

<sup>20</sup> (12 RR 97 – 101). Litchfield's brother confirmed Litchfield had a .22 Ruger pistol (12 RR 108).

<sup>21</sup> (12 RR 234, 235).

<sup>22</sup> (11 RR 205 – 209, 226).

<sup>23</sup> (12 RR 86 – 95).

<sup>24</sup> (12 RR 146 – 152). State's exhibit 119.

<sup>25</sup> (12 RR 215, 216).

<sup>26</sup> (12 RR 221 – 223).

Differences between Appellant's 1999 statements and grand jury testimony included where her husband was the last time she saw him and whether he was smoking marijuana.<sup>27</sup> Other inconsistencies concerned their finances<sup>28</sup> and whether or not Litchfield had life insurance.<sup>29</sup>

Ranger Jason Bobo compared Appellant's 1999 written statement, with her 2014 and 2015 grand jury testimony.<sup>30</sup> He outlined the discrepancies for the jury.<sup>31</sup>

## **7.     *The Finances.***

Litchfield was to get a bank loan for a boat. Appellant stated she wanted to postpone the bank meeting until she could tell Litchfield about some charges she had put on the credit card that he didn't know about. She said she talked to him about it and he wasn't upset.<sup>32</sup>

Ranger Bobo found checks Appellant made out to herself and insufficient fund notices. Bank statements showed checks written by Appellant and made out to her for \$700.00. One was from the construction account.<sup>33</sup> Bobo found the amount of debt owed on the Discover credit card was not \$500.00 but over \$8,000.00, as

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<sup>27</sup> (14 RR 114 - 123). State's exhibit 119.

<sup>28</sup> (14 RR 118, 119).

<sup>29</sup> (14 RR 121 – 124).

<sup>30</sup> (15 RR 59). State's exhibit 119.

<sup>31</sup> (15 RR 60 – 77).

<sup>32</sup> (12 RR 146 – 152).

<sup>33</sup> (15 RR 98 – 102). There was a \$1000.00 withdrawal by Appellant.

indicated by the probate records.<sup>34</sup> The financial data showed Appellant wasn't giving an accurate statement about her financial affairs at the time of the murder.<sup>35</sup>

There were discrepancies concerning the amount of insurance payment Appellant received.<sup>36</sup> Helms asked Appellant about Litchfield's life insurance policy, but she never mentioned it until a month after her husband's murder.<sup>37</sup>

#### **8. *Appellant's fear of Litchfield.***

Three to four months prior to Litchfield's murder, Appellant asked her mail carrier to hold a letter about a credit card and not deliver it to their residence. Appellant explained she had bought something expensive and didn't want her husband to find out what the cost was.<sup>38</sup>

Robin Patterson was a bank loan officer. Litchfield wanted to get a loan to purchase a boat. The day before the murder, Appellant called several times. Appellant was worried and frantic about her husband finding out about their credit. Appellant asked her to change the appointment to the next day so she could explain to Litchfield what was going on with their credit. Patterson described Appellant's demeanor as frantic.<sup>39</sup> Patterson noticed Appellant was intimidated by her husband and uncomfortable around him.

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<sup>34</sup> (15 RR 60 – 77).

<sup>35</sup> (15 RR 136, 137).

<sup>36</sup> (14 RR 139).

<sup>37</sup> (12 RR 157- 159).

<sup>38</sup> (13 RR 21 – 26, 34).

<sup>39</sup> (12 RR 252).

Patterson remembered the fear Appellant had when she called.<sup>40</sup> “What was unusual was she was so afraid and she was sounding so afraid and worried and scared that that was going – that was what was unusual, that was what made me remember it.”<sup>41</sup>

E. A. Hughes knew Litchfield all his life.<sup>42</sup> He knew Litchfield wanted to buy a boat and Litchfield owned a .22 Ruger.<sup>43</sup> He said Litchfield wasn’t a bad guy, but he wasn’t a real good guy either. Litchfield was “real close” with a dollar.<sup>44</sup>

Hughes said Litchfield would kill you over \$50.00. He believed Appellant murdered her husband.<sup>45</sup>

Tom Creek, bank president, confirmed Litchfield had a temper and sometimes got into arguments with his secretaries over money issues. A couple of times he went in the lobby to curb down Litchfield’s temper.”<sup>46</sup>

Appellant called Creek about the boat loan. She didn’t want Litchfield to see her credit report and find out what her credit was. She sounded afraid of him.<sup>47</sup>

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<sup>40</sup> (12 RR 253).

<sup>41</sup> (12 RR 256).

<sup>42</sup> (14 RR 5 – 9).

<sup>43</sup> (14 RR 10, 11).

<sup>44</sup> (14 RR 14, 15).

<sup>45</sup> (14 RR 34 – 36).

<sup>46</sup> (14 RR 152).

<sup>47</sup> (14 RR 150 – 153, 157 – 161).



Ranger Bobo found Appellant had called the Bank five times on the morning before Litchfield's murder.<sup>48</sup> After interviewing Patterson and Creek, and learning of Appellant's rescheduling the bank appointment to the day of the murder, he believed the murder was directly associated with Litchfield's attempt to get a loan from the bank.<sup>49</sup>

**9. *Appellant's changed relationship with Litchfield's family.***

Litchfield's son spoke to Appellant the day of the murder. She didn't seem upset, but he attributed that to shock.<sup>50</sup> He testified Appellant's relationship with her mother-in-law, had changed after the murder. She had no interaction with her after the murder.<sup>51</sup>

Litchfield's sister confirmed this change of relationship. Prior to the murder, they had a good relationship. After the murder, they had no relationship.<sup>52</sup>

**10. *Additional incriminating circumstances.***

**a. *The missing 45 minutes.***

Appellant told Helms it took her an hour and a half to get to Wood's house which was 23 miles from her house.<sup>53</sup> Ranger Bobo noted the gap in time between

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<sup>48</sup> (15 RR 15 – 18).

<sup>49</sup> (15 RR 19, 20).

<sup>50</sup> (14 RR 164 – 174).

<sup>51</sup> (14 RR 175 – 180).

<sup>52</sup> (14 RR 182 – 190).

<sup>53</sup> (12 RR 215, 216). Woods said Appellant arrived between 8 and 8:30 a.m.

her stated time of leaving her home at 6 a.m. and taking 2 hours to drive 22 miles.<sup>54</sup> Appellant explained this gap due to a heavy rainfall. However, the weather records showed only a little rain.<sup>55</sup> Bobo drove the route Appellant stated she normally drove to Hammack's house and the route she said she drove due to the rain. Both took around 35 minutes.<sup>56</sup>

***b. Appellant's setting up an alibi.***

Appellant told Helms she got up at 5 a.m. Her girlfriend called about 5:30 to tell her to be careful about the creek due to the rain. The call woke up Litchfield, who said he would "kick her butt" for calling so early. She said she had coffee with her husband. He drank decaf. He told her to leave the gate open. She left the house at 6:30 a.m. She gave elaborate details of how she spent that morning.<sup>57</sup> Sheriff Burks tried to interview Hammack, but she wouldn't talk to him.<sup>58</sup>

***c. The elimination of other suspects.***

Other suspects were developed during this investigation. Eventually, they were all eliminated.<sup>59</sup>

***d. Only Appellant had both the means and opportunity to kill her husband.***

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<sup>54</sup> (15 RR 29).

<sup>55</sup> (15 RR 87 – 94).

<sup>56</sup> (15 RR 95).

<sup>57</sup> (12 RR 86 – 95).

<sup>58</sup> (14 RR 65).

<sup>59</sup> (14 RR 86 – 93).

There were numerous additional incriminating circumstances showing Appellant was the only person who could have killed her husband. This is based upon the time of death calculated by Dr. Crowns.

Appellant was the only person, by her own accounts, with the victim at his time of death. Their dogs were very aggressive.<sup>60</sup> They wouldn't have allowed a stranger into their house.<sup>61</sup> Also, there were no signs of forced entry. She was the only person who knew Litchfield kept a .22 in his bedside table.<sup>62</sup> Litchfield was shot in the bedroom, and at close range. Instead of trying to run from the house, he apparently turned to speak with the person shooting him, indicating he knew the shooter. Litchfield's .22 was missing after the murder. The bullet fragments taking from Litchfield's body matches the type of bullets found in their home.

Ness is Appellant's daughter-in-law. Ness testified about her previous grand jury testimony concerning Litchfield's missing .22 and whether he had been shot with it as well as Litchfield being shot in his bed. She had testified Litchfield probably knew the shooter. She testified no one would have known Litchfield well enough to know that he would have been in bed and had his gun by his nightstand at the time of the shooting.<sup>63</sup>

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<sup>60</sup> (14 RR 44 – 46). (14 RR 61 – 64)

<sup>61</sup> (13 RR 142 – 144).

<sup>62</sup> (13 RR 168, 169).

<sup>63</sup> (13 RR 168, 169).

## **SUMMARY OF ARGUMENT**

Appellant asks if the Sixth Court of Appeals failed to consider whether the jury was rationally justified in finding her guilty of the murder. Appellant characterizes the evidence against her as speculation and opinion. She divides out certain items of evidence and fails to address several other items of evidence upon which the Sixth Court of Appeals based its conclusion that the jury's verdict was rationally supported by the cumulative force of all of the incriminating circumstances.

The Sixth Court of Appeals did conduct the appropriate standard of review. The Court conducted a detailed analysis of the evidence. The Court concluded there was legally sufficient evidence to rationally support the jury's verdict. The State agrees and argues there was sufficient circumstantial evidence for a rational jury to make a reasonable inference that it was Appellant who murdered Litchfield.

***Reply to Issue Restated:***

***In finding the evidence legally sufficient to support Appellant's conviction, the Sixth Court of Appeals did follow the appropriate standard of review.***

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**I. ARGUMENT AND AUTHORITIES**

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***A. The Standard of Review***

When addressing a challenge to the sufficiency of the evidence, the appellate court considers whether, after viewing all of the evidence in the light most favorable to the verdict, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.<sup>64</sup>

This standard requires the appellate court to defer "to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts."<sup>65</sup> The reviewing court may not re-weigh the evidence or substitute its judgment for that of the factfinder.<sup>66</sup>

A reviewing court, in determining whether the evidence is sufficient to

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<sup>64</sup> *Jackson v. Virginia*, 443 U.S. 307, 319, (1979); *Villa v. State*, 514 S.W.3d 227, 232 (Tex. Crim. App. 2017); *Zuniga v. State*, No. PD-0174-17, 2018 Tex. Crim. App. LEXIS 242, at \*2 (Tex. Crim. App. June 6, 2018); *Nisbett v. State*, No. PD-0041-17, 2018 Tex. Crim. App. LEXIS 560, at \*14 (Tex. Crim. App. June 27, 2018).

<sup>65</sup> *Jackson*, 443 U.S. at 319.

<sup>66</sup> *Williams v. State*, 235 S.W.3d 742, 750 (Tex. Crim. App. 2007).

support a conviction, reviews all of the evidence in the light most favorable to the prosecution to determine whether, based on that evidence and reasonable inferences therefrom, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.<sup>67</sup>

This standard gives full play to the responsibility of the factfinder "to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts."<sup>68</sup> An appellate court cannot act as a thirteenth juror and make its own assessment of the evidence.<sup>69</sup> This is because the jurors are the exclusive judges of the facts, the credibility of the witnesses, and the weight to be given to the testimony.<sup>70</sup> A court's role on appeal is restricted to guarding against the rare occurrence when the factfinder does not act rationally.<sup>71</sup>

The court conducting a sufficiency review must not engage in a "divide and conquer" strategy but must consider the cumulative force of all the evidence.<sup>72</sup> Although juries may not speculate about the meaning of facts or evidence, juries are permitted to draw any reasonable inferences from the facts so long as each inference

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<sup>67</sup> *Jackson* at 319. *Nisbett* at \*14.

<sup>68</sup> *Jackson* at 319, *Nisbett* at \*14; *Whatley v. State*, 445 S.W.3d 159, 166 (Tex. Crim. App. 2014).

<sup>69</sup> *Nisbett* at \*14; *Cary v. State*, 507 S.W.3d 761, 766 (Tex. Crim. App. 2016).

<sup>70</sup> *Brooks v. State*, 323 S.W.3d 893, 899 (Tex. Crim. App. 2010).

<sup>71</sup> *Nisbett* at \*14; *Morgan v. State*, 501 S.W.3d 84, 89 (Tex. Crim. App. 2016).

<sup>72</sup> *Villa* at 232.

is supported by the evidence presented at trial.<sup>73</sup> “[A]n inference is a conclusion reached by considering other facts and deducing a logical consequence from them.”<sup>74</sup> The appellate court should only consider whether the inferences necessary to establish guilt are reasonable based upon all the evidence when considered in the light most favorable to the verdict.<sup>75</sup>

Direct evidence and circumstantial evidence are equally probative, and circumstantial evidence alone may be sufficient to uphold a conviction so long as the cumulative force of all the incriminating circumstances is sufficient to support the conviction.<sup>76</sup> The State may prove a defendant’s identity and criminal culpability by either direct or circumstantial evidence, coupled with all reasonable inferences from that evidence.<sup>77</sup> The same standard of review is used for both circumstantial and direct evidence cases.”<sup>78</sup>

The reviewing court will uphold the jury’s verdict unless a rational factfinder must have had a reasonable doubt as to any essential element.<sup>79</sup> The State need not

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<sup>73</sup> *Cary* at 757 (citing *Jackson*, 443 U.S. at 319); *Hooper v. State*, 214 S.W.3d 9, 16-17 (Tex. Crim. App. 2007).

<sup>74</sup> *Hooper* at 16

<sup>75</sup> *Id.*

<sup>76</sup> *Ramsey v. State*, 473 S.W.3d 805, 809 (Tex. Crim. App. 2015); *Hooper*, 214 S.W.3d at 13. *Zuniga*, 2018 Tex. Crim. App. LEXIS 242, at \*2.

<sup>77</sup> *Balderas v. State*, 517 S. W. 3d 756, 766, (Tex. Crim. App. 2016) citing *Gardner v. State*, 306 S. W. 3d 274, 285 (Tex. Crim. App. 2009).

<sup>78</sup> *Jenkins v. State*, 493 S. W. 3d 583, 599 (Tex. Crim. App. 2016) (citing *Hooper* at 13).

<sup>79</sup> *Laster v. State*, 275 S. W. 3d 512, 518 (Tex. Crim. App. 2009); *West v. State*, 406 S. W. 3d 748, 756 (Tex. App. – Houston [14th Dist.] 2013, pet. ref’d).

disprove all reasonable alternative hypotheses that are inconsistent with the defendant's guilt.<sup>80</sup> At the end of the day, the key question up for review is whether "the evidence presented actually supports a conclusion that the defendant committed the crime that was charged."<sup>81</sup>

## ***B. Analysis***

### ***1. The Sixth Court of Appeals followed the correct standard of review for the sufficiency of the evidence.***

The Sixth Court of Appeals set out the correct standard of review in its evaluation of the legal sufficiency of the evidence.<sup>82</sup> This continues to be the standard as recently set out by this Honorable Court.<sup>83</sup> The Sixth Court recited the key pieces of circumstantial evidence. It properly applied the standard of review.<sup>84</sup>

The Court reviewed the incriminating circumstances of Appellant's guilt. The Sixth Court concluded the jury's rational verdict was supported by the cumulative force of all of the incriminating circumstances.<sup>85</sup>

### ***2. Appellant's argument***

Appellant limits her argument to only a portion of the evidence presented. She

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<sup>80</sup> *Wise v. State*, 364 S. W. 3d 900, 903 (Tex. Crim. App. 2012).

<sup>81</sup> *Morgan v. State*, 501 S. W. 3d 84, 89 (Tex. Crim. App. 2016), *Williams v. State*, 235 S. W. 3d 742, 750 (Tex. Crim. App. 2007).

<sup>82</sup> *Litchfield v. State*, No. 06-17-00007-CR, 2017 Tex. App. LEXIS 11080, at \*2-3 (Tex. App. – Texarkana, Nov. 30, 2017, pet. granted) (op. not designated for publication).

<sup>83</sup> *Nisbett*, 2018 Tex. Crim. App. LEXIS 560, at \*14. *Zuniga*, 2018 Tex. Crim. App. LEXIS 242, at \*2

<sup>84</sup> *Litchfield* at \*41.

<sup>85</sup> *Litchfield* at \*45.



divides out select portions of evidence arguing this evidence does not demonstrate a realistic motive.<sup>86</sup> Tellingly, Appellant completely omits the evidence concerning the fear she had of her husband finding out the true nature of their finances. Appellant fails to address the testimony of numerous witnesses as to her motive, opportunity and demeanor both before and after the shooting.

The Sixth Court properly considered whether the jury was rationally justified in finding Appellant guilty of murdering her husband. Since Appellant limits her issue to whether the Sixth Court applied the proper standard of review, this should effectively end this Honorable Court's inquiry. However, out of an abundance of caution, the State will also address whether the evidence was sufficient to uphold the conviction.

***3. There was sufficient evidence for a rational jury to conclude that Appellant murdered her husband.***

Appellant's motive consisted of the dire financial straits she was in and her own admission that Litchfield was unaware of those financial problems. Appellant was the only one who had the opportunity to murder Litchfield. This is based upon the time of death, during which Appellant admits she and Litchfield were alone in the house. When combined with the evidence Litchfield was likely killed with his own gun, that only Appellant knew where that gun was kept, and the gun was the

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<sup>86</sup> *Id.* at 12.

only item missing from the residence, it becomes apparent Appellant was the only person who could have murdered Litchfield.

The significance of Appellant's own conflicting statements cannot be overstated. Key among several conflicting statements was the changing version of the last time she saw her murdered husband alive.

As previously noted several other items of circumstantial evidence can be factored into the jury's decision. The cumulative weight of these individual facts clearly supports the jury's rational inference that Appellant was Litchfield's murderer.

***a. Motive.***

Motive and opportunity, although insufficient to prove identity, are circumstances indicative of guilt.<sup>87</sup> Motive is a significant circumstance indicating guilt.<sup>88</sup> Marital difficulty can establish a motive for murder.<sup>89</sup> Further, the presence or absence of a motive may be considered when reviewing the sufficiency of the evidence.<sup>90</sup>

Appellant's clear motive to murder her husband was to keep him from finding

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<sup>87</sup> *Temple v. State*, 390 S. W. 3d 341, 360 (Tex. Crim. App. 2013); *Clayton v. State*, 235 S. W. 3d 772, 781 (Tex. Crim. App. 2007); *Guevara v. State*, 152 S. W. 3d 45, 50 (Tex. Crim. App. 2004).

<sup>88</sup> *Nisbett*, 2018 Tex. Crim. App. LEXIS 560, at \*50; *Ex parte Weinstein*, 421 S.W.3d 656, 668 (Tex. Crim. App. 2014).

<sup>89</sup> *Nisbett* at \*50 n.55.

<sup>90</sup> *Gordon v. State*, 735 S. W. 2d 510, 517 (Tex. App. – Houston [1st Dist.] 1987, no pet.).

out about their true financial situation. She was terrified over what he would do if he found out. She frantically called the bank to postpone the meeting to keep him from learning of the clandestine charges and possible impact to her credit.<sup>91</sup> The jury could have inferred Litchfield would have reacted badly once he discovered the financial straits in which Appellant had placed him.<sup>92</sup>

***b. Opportunity.***

There were numerous incriminating circumstances regarding Appellant's opportunity to kill her husband. The jury could have resolved the conflicting testimony as to time of death and conclude Litchfield was shot before Appellant left the house at 6:30 a.m. The State's forensic expert testified the bullets removed from Litchfield's body and fragments found at the crime scene were consistent with the type of weapon owned by Litchfield and the cartridges found in his gun case.<sup>93</sup>

Appellant knew where Litchfield kept his gun. The likelihood that Litchfield was shot with his own gun, found in his own bedside table, was additional evidence of opportunity.

Officers saw no sign of forced entry. The dogs, who were known to bark at strangers, were seen inside the closed gate at approximately 11:30 a.m.<sup>94</sup>

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<sup>91</sup> *Litchfield* at \*43.

<sup>92</sup> There actually was an \$8,000.00 debt, not \$500.00, on his Discover card for example. (15 RR 60 – 77).

<sup>93</sup> (12 RR 32 – 35).

<sup>94</sup> *Litchfield*, at \*43-44.

There was sufficient evidence by which a rational jury could have inferred Appellant was alone with Litchfield at the time of his death. The additional evidence of Appellant's unaccounted for time and minimal rainfall that morning, which contradicted Appellant's story, makes this inference even more compelling.<sup>95</sup>

***c. Appellant's inconsistent statements***

Inconsistencies in a defendant's story can provide evidentiary support for a conviction.<sup>96</sup> There were several inconsistencies in statements made by Appellant to law enforcement, the grand jury and others. Appellant's changing stories, especially about key facts, are indicative of a consciousness of guilt.<sup>97</sup>

A fact-finder may infer a consciousness of guilt from a defendant's changing story about the crime and the surrounding circumstances.<sup>98</sup> Inconsistent statements may be considered indicative of guilt.<sup>99</sup>

***d. Other inculpatory circumstances***

There were additional inculpatory circumstances as previously noted indicative of Appellant's guilt. These included Appellant's movements the day of the murder, which gave the appearance she was setting up an elaborate alibi. Especially her three trips to Chess,' where she knew she would be seen by a number

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<sup>95</sup> (15 RR 29, 92 – 95). *Clayton v. State*, 235 S. W. 3d 772, 782, (Tex. Crim. App. 2007).

<sup>96</sup> *Temple v. State*, 390 S.W.3d at 361; *Nisbett*, 2018 Tex. Crim. App. LEXIS 560, at \*14 at \*50 n.57.

<sup>97</sup> *Couchman v. State*, 3 S. W. 3d 155, 163-64 (Tex. Crim. App. 1999).

<sup>98</sup> *Id.*

<sup>99</sup> *Guevara v. State*, 152 S.W.3d 45, 49 (Tex. Crim. App. 2004).

of people. Attempts to create a false alibi are evidence of guilt.<sup>100</sup> There were also Appellant's aggressive and provocative Facebook postings which were inconsistent with her portrayal of a grieving widow.<sup>101</sup>

*e. Ranger Bobo's cross-examination.*

Appellant focuses on this portion of Bobo's testimony, but it was Defense Counsel who asked Bobo what facts showed Appellant murdered her husband. He proceeded to list them.<sup>102</sup>

The cumulative force of all of these incriminating pieces of circumstantial evidence support the jury's verdict that Appellant was the person who murdered Litchfield.

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## II. CONCLUSION

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Appellant asks whether the Sixth Court of Appeals did not follow the appropriate standard of review. The State has shown that the Sixth Court did follow the appropriate standard of review. Further, the State has shown that the combined and cumulative force of the evidence, viewed in the light most favorable to the jury's verdict, is legally sufficient to support that verdict.<sup>103</sup>

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<sup>100</sup> *Longoria v. State*, 154 S. W. 3d 747, 757 (Tex. App. – Houston [14th Dist.] 2004, pet. ref'd).

<sup>101</sup> (13 RR 172, 173).

<sup>102</sup> (15 RR 29 -33).

<sup>103</sup> *Clayton v. State*, 235 S. W. 3d 772, 778, 782

The State respectfully asks this Honorable Court to uphold the decision of the Sixth Court of Appeals and find that Court was correct in holding that a rational jury could find, beyond a reasonable doubt, that Appellant was responsible for killing her husband, Raymond Litchfield.

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**PRAYER FOR RELIEF**

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Wherefore, premises considered, the State of Texas prays this Honorable Court of Criminal Appeals, in all things, affirm the judgments of the Trial and Appellate Courts.

Respectfully Submitted,

/s/ Charles Karakashian, Jr.

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### **Certificate of Service**

By my signature affixed below, I, Charles Karakashian, Jr., certify that on September 4, 2018, a true and correct copy of the foregoing State's Brief was e-mailed to Counsel for Appellant, Mr. James H. Kreimeyer at [jhkreimeyer@gmail.com](mailto:jhkreimeyer@gmail.com) and Ms. Stacey M. Soule, the State Prosecuting Attorney at [information@spa.texas.gov](mailto:information@spa.texas.gov) through the Court's electronic filing system.

/s/ Charles Karakashian, Jr.  
Charles Karakashian, Jr.  
Special Prosecutor

### **Certificate of Compliance**

By my signature affixed above, I, Charles Karakashian, Jr., certify that the foregoing Brief complies with the requirements of Tex. R. App. P. Rule 9.4 and, according to Microsoft Word 2010, in which it was created, contains 4,442 words, beginning at the words "Statement of Facts" in the heading of that section, and concluding with the final word in the Prayer in accordance with Rule 9.4(i)(2)(d) and Rule 70.3.